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Letter dated 31 December 2008 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan (see annex), which covers the Committee's activities during the period from 1 January to 31 December 2008. The report is submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

(*Signed*) Giulio **Terzi di Sant'Agata**
Chairman
Security Council Committee established pursuant to
resolution 1591 (2005) concerning the Sudan

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Annex

Report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

I. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan covers the period from 1 January to 31 December 2008.

2. From 1 January to 21 August 2008, the Bureau consisted of Marcello Spatafora (Italy) as Chairman, with the delegations of Croatia and Panama providing the Vice-Chairmen. From 22 August to 31 December 2008, the Bureau consisted of Giulio Terzi di Sant'Agata (Italy) as Chairman, with the delegations of Croatia and Panama continuing to provide the Vice-Chairmen. During the reporting period, the Committee held eight informal consultations. The web page of the Committee is at http://www.un.org/sc/committees/1591.

II. Background information and activities of the Committee

A. Background information

3. By its resolution 1556 (2004) of 30 July 2004, the Security Council imposed an arms embargo on all non-governmental entities and individuals, including the Janjaweed, operating in the states of Northern Darfur, Southern Darfur and Western Darfur in the Sudan.

4. By its resolution 1591 (2005) of 29 March 2005, the Council broadened the scope of the arms embargo, with immediate effect, to include all the parties to the N'Djamena Ceasefire Agreement and any other belligerents in the states of Northern Darfur, Southern Darfur and Western Darfur. By the same resolution, the Council established a committee to monitor the implementation of the arms embargo and the two additional measures imposed by the resolution, namely, a travel ban and an assets freeze on those individuals designated by the Committee on the basis of the criteria contained in the resolution. The travel ban and the assets freeze entered into force on 29 April 2005.

5. By its resolution 1591 (2005), the Security Council also established, for a period of six months, a four-member Panel of Experts to assist the Committee in monitoring the implementation of the arms embargo, travel ban and assets freeze, to report to the Council through the Committee with its findings and recommendations, and to coordinate its activities as appropriate with ongoing operations of the African Union Mission in the Sudan (AMIS). Under the same resolution, the Panel of Experts was also identified as a source of information regarding individuals who might be designated by the Committee as subject to the targeted sanctions.

6. The mandate of the Panel of Experts has since been extended five times, by Security Council resolutions 1651 (2005), 1665 (2006), 1713 (2006), 1779 (2007) and 1841 (2008). The current extension expires on 15 October 2009. Resolution 1713 (2006) also authorized the addition of a fifth expert to enable the Panel to better carry out its mission. Resolutions 1779 (2007) and 1841 (2008) also requested

the Panel to coordinate its activities as appropriate with the operations of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), which succeeded AMIS, and with international efforts to promote the political process in Darfur. Following each extension of the mandate, the Secretary-General appointed individuals to serve on the Panel (see S/2005/428, S/2006/23, S/2006/99, S/2006/301, S/2006/926, S/2007/706 and S/2008/743).

7. In the course of its mandate, in accordance with the relevant Security Council resolutions, the Panel of Experts submitted and/or presented three interim reports, dated 7 October 2005, 16 March 2007 and 2 July 2007, and a midterm report dated 14 May 2008. The Panel provided a midterm briefing on 25 July 2006. The Panel also submitted and presented, towards the end of each mandate, five final reports to the Committee, which were subsequently transmitted by the Chairman to the President of the Council and were issued as documents (S/2006/65, S/2006/250, S/2006/795, S/2007/584 and S/2008/647).

8. By its resolution 1672 (2006), the Security Council designated four individuals as subject to the travel ban and assets freeze imposed by resolution 1591 (2005).

9. By its resolution 1679 (2006), the Security Council expressed its intention to consider taking, including in response to a request by the African Union, strong and effective measures, such as a travel ban and assets freeze, against any individual or group that violated or attempted to block the implementation of the Darfur Peace Agreement.

10. By a presidential statement dated 24 October 2007 (S/PRST/2007/41), the Security Council called on all parties to attend and to engage fully and constructively in the talks in Sirte, Libyan Arab Jamahiriya, and, as a first step, to urgently agree and implement a cessation of hostilities to be overseen by the United Nations and the African Union. The Council underlined its willingness to take action against any party that sought to undermine the peace process, including by failing to respect such a cessation of hostilities or by impeding the talks, peacekeeping or humanitarian aid.

11. By a presidential statement of 11 January 2008 (S/PRST/2008/1), the Security Council expressed its readiness to take action against any party that impeded the peace process, humanitarian aid or the deployment of UNAMID. The Council also recognized that due process had to take its course.

12. By a presidential statement of 16 July 2008 (S/PRST/2008/27), the Security Council underlined its determination to take action against those responsible for the attack on 8 July 2008 on a UNAMID military and police convoy after hearing the outcome of the UNAMID investigation into the attack.

13. By its resolution 1828 (2008) of 31 July 2008, the Security Council reiterated its readiness to take action against any party that impeded the peace process, humanitarian assistance or the deployment of UNAMID and recognized that due process had to take its course.

B. Summary of the activities of the Committee

14. During the period under review, the Committee received no additional replies to its communications sent to 11 States in the region of the Sudan and to all States, dispatched on 17 and 27 May 2005, respectively, which recalled the relevant

provisions of resolutions 1556 (2004) and 1591 (2005) and requested information on the steps that States had taken to implement the arms embargo, the travel ban and the assets freeze. Thus, the total number of replies received remains 13.

15. In informal consultations on 31 January 2008, the Committee met with the Panel of Experts reconstituted pursuant to resolution 1779 (2007) and discussed the Panel's proposed preliminary programme of work. In addition, the Committee discussed the implementation of the travel ban and the assets freeze with respect to a designated individual who, according to media reports, had been appointed to the position of Adviser to the Ministry of Federal Affairs of the Government of the Sudan. On 15 February 2008, the Chairman of the Committee sent a letter to the Permanent Representative of the Sudan, seeking assurances that the Government of the Sudan was implementing the measures with respect to that individual.

16. On 12 February 2008, the Committee issued a note verbale to all Member States and a press release (SC/9247) on its adoption, on 7 December 2007, of amended Guidelines of the Committee for the Conduct of its Work[a] in order to incorporate the de-listing procedure outlined in resolution 1730 (2006).

17. In informal consultations on 27 February 2008, the Committee considered a letter of complaint dated 24 January 2008 from the Government of the Sudan against the Justice and Equality Movement (JEM) in Darfur. The letter included a request to impose sanctions on the leaders and members of JEM and other movements that impeded the peace process. The Chairman of the Committee sent a reply dated 7 March 2008, in which he recalled the Guidelines of the Committee, particularly the procedures for submission of identifying information concerning individuals proposed for designation.

18. On 13 March 2008, the Chairman of the Committee delivered his fifth 90-day report to the Security Council, in accordance with paragraph 3 (a) (iv) of resolution 1591 (2005), describing the Committee's activities since his last briefing, on 7 December 2007.

19. On 31 March 2008, the Committee received an update report from the Panel of Experts at the end of the Panel's first month of travel in the Sudan and in the region. On 14 May 2008, the Committee received a midterm report from the Panel of Experts in accordance with resolution 1779 (2007). In informal consultations on 27 May 2008, after having heard a presentation by the Panel on its midterm report, the Committee discussed the report with the panellists. Subsequently, on 6 June 2008, the Chairman sent two letters, one to the Joint African Union-United Nations Special Representative for Darfur and Head of UNAMID and the other to the Operational Commander of the European Union Force in Chad and the Central African Republic (EUFOR), regarding, respectively, UNAMID and EUFOR cooperation with the Panel.

20. On 12 June 2008, the Chairman of the Committee delivered his sixth 90-day report to the Security Council, in accordance with paragraph 3 (a) (iv) of resolution 1591 (2005), describing the Committee's activities since his last briefing, on 13 March 2008.

21. On 14 August 2008, the Committee received a second update report from the Panel of Experts, for the period from May to August 2008. The report included a

[a] The Guidelines are available on the Committee's web page.

request for assistance in eliciting responses from States that had yet to reply to the Panel's letters seeking information relevant to the discharge of its mandate. On 2 September 2008, the Chairman sent letters to 16 States drawing attention to the pending requests for information so that those States' responses could be received in time for the Panel's final report under resolution 1779 (2007).

22. In informal consultations on 5 September 2008, convened under the new Chairman, the Committee discussed its future programme of work.

23. On 11 September 2008, the new Chairman of the Committee delivered his first 90-day report to the Security Council, in accordance with paragraph 3 (a) (iv) of resolution 1591 (2005), describing the Committee's activities since his predecessor's briefing on 12 June 2008. The Chairman also reported on a bilateral meeting he had held with the Permanent Representative of the Sudan on 29 August 2008. On 15 September 2008, the Committee received a letter from the Permanent Representative of the Sudan addressing the matters raised during his bilateral meeting with the Chairman.

24. In informal consultations on 10 October 2008, the Committee received an oral and visual presentation from the Panel of Experts concerning its final report under resolution 1779 (2007), and members of the Committee discussed with the panellists the findings and recommendations contained therein. Committee members further discussed each of the recommendations in greater detail in subsequent informal consultations held on 4 November 2008. They agreed to implement some of those recommendations or elements thereof.

25. Thus, on 20 November 2008, the Chairman sent a letter to the Government of the Sudan concerning arms embargo notification and compliance, offensive military overflights, Government aircraft that could possibly be confused with aircraft owned by international organizations such as the United Nations, the Panel's work on the ground, and the travel ban and assets freeze. A response dated 22 December 2008 was received from the Government of the Sudan. On 20 November 2008, the Chairman also sent a letter to the Under-Secretary-General for Peacekeeping Operations, copied to the Under-Secretary-General for Field Support, on various matters relating to arms embargo monitoring, to which a response was received on 10 December 2008. On the basis of a proposal by the Chairman that was discussed and agreed upon in the informal consultations of 10 October 2008, the Chairman sent a letter dated 20 November 2008 to the Chairman of the Security Council Working Group on Children and Armed Conflict, highlighting a case study contained in the Panel's final report concerning the use of children in armed conflict by JEM.

26. In consultations on 2 December 2008, the members of the Committee agreed that the Chairman would contact the Permanent Representatives of the Sudan and Chad to express the Committee's interest in hearing those representatives' views, in accordance with paragraph 3 (a) (vii) of resolution 1591 (2005), on the final report of the Panel of Experts. At the time of the writing of the present report, contacts were ongoing in that respect.

27. The members of the Committee also discussed a letter dated 26 November 2008 from a non-governmental organization, requesting a meeting with the Committee in accordance with paragraph 24 of the Guidelines of the Committee, in order to brief the Committee about information it had gathered regarding ongoing

violations of the measures imposed by resolutions 1556 (2004) and 1591 (2005). The Committee heard the briefing in informal consultations on 12 December 2008.

28. On 10 December 2008, the Chairman of the Committee delivered his second 90-day report to the Security Council, in accordance with paragraph 3 (a) (iv) of resolution 1591 (2005), describing the Committee's activities since his last briefing, on 11 June 2008.

29. In conducting its work, the Committee continued to apply its Guidelines adopted on 23 March 2006 and amended on 27 December 2007. Among other purposes, the guidelines serve to facilitate the implementation of the travel ban and assets freeze imposed by paragraphs 3 (d) and (e) of resolution 1591 (2005), in accordance with paragraph 3 (a) (iii) of the same resolution. In this connection, however, no requests were received by the Committee either to remove the names of individuals on the consolidated travel ban and assets freeze list or for exemptions to the targeted sanctions.

III. Violations and alleged violations of the sanctions regime as reported by the Panel of Experts

30. During the period under review, the Panel of Experts found continued violations of the arms embargo by all parties in Darfur, which it noted allowed both the Government of the Sudan and the Darfur armed groups to continue to conduct offensive military operations both inside and outside Darfur. The Panel found that offensive military overflights by the Government of the Sudan over Darfur continued, and that white Government aircraft that could possibly be confused with aircraft operated by international organizations such as the United Nations were still in use. The Panel also found that the Government of the Sudan was not implementing the travel ban and the assets freeze. The Committee addressed these issues in the above-mentioned letter to the Government of the Sudan dated 20 November 2008.

31. The Panel found that arms and related materiel delivered to the Sudan and Chad outside of the provisions of the embargo were being diverted into Darfur and were fuelling the conflict. The Panel noted that thus far UNAMID had been unable to fulfil its mandate related to monitoring the arms embargo. The Panel found continued violations of international human rights and humanitarian law, and that violators were operating in a culture of almost total impunity. The assessment of the Panel of Experts in this regard was not shared by all members of the Committee.